

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

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NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Rule 71.1)

Date of mailing
(day/month/year)

07.09.2004

Applicant's or agent's file reference
A3232.WO197

IMPORTANT NOTIFICATION

International application No.
PCT/IB 03/03206

International filing date (day/month/year)
14.07.2003

Priority date (day/month/year)
25.07.2002

Applicant
AZIONARIA COSTRUZIONI MACCHINE et al.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international
preliminary examining authority:



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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference A3232.WO197	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/IB 03/03206	International filing date (<i>day/month/year</i>) 14.07.2003	Priority date (<i>day/month/year</i>) 25.07.2002
International Patent Classification (IPC) or both national classification and IPC B65D5/06		
Applicant AZIONARIA COSTRUZIONI MACCHINE et al.		
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 7 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of sheets.</p>		
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the opinion</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>		
Date of submission of the demand 16.02.2004	Date of completion of this report 07.09.2004	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Bevilacqua, V Telephone No. +49 89 2399-7983 	

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/IB 03/03206

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-21 as originally filed

Claims, Numbers

1-10 as originally filed

Drawings, Sheets

1/6-6/6 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	3,4,6
	No: Claims	1,2,5,7,8,9,10
Inventive step (IS)	Yes: Claims	-
	No: Claims	3,4,6
Industrial applicability (IA)	Yes: Claims	1-10
	No: Claims	

2. Citations and explanations

see separate sheet

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Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. State of the art

Reference is made to the following documents:

- D1: US-A-5 143 281 (SCHNEIDER LUTZ ET AL) 1 September 1992 (1992-09-01)
- D2: DE 25 26 829 A (SIAM HOO ONG) 2 January 1976 (1976-01-02)
- D3: US-A-4 564 139 (REIL WILHELM) 14 January 1986 (1986-01-14)

2. Novelty

2.1 The document D1 is regarded as being the closest prior art to the subject-matter of independent claim 1, and discloses (the references in parentheses applying to this document): a container, in particular for preserving food products, consisting in a hollow structure obtainable by bending and sealing at least one substantially flat blank and comprising: a containing portion providing an enclosure in which to accommodate at least one preservable product, presenting at least one side wall furnished with at least one end portion adaptable by bending and sealing operations in such a way as to fashion a bottom end; whereby the bottom end is fashioned from the end portion of the side wall presents at least one area of layered structure (3) delimited by at least one seal (2) positioned to isolate the selfsame area of layered structure from the enclosure of the container, thereby ensuring that the enclosure encompasses a volume devoid of interstitial spaces and/or stagnation points.

D1 discloses also implicitly an outlet portion located at the end opposite to the bottom end, permanently associated with the side wall of the containing portion and combining to establish the enclosure at least in part.

The subject-matter of independent claim 1 is therefore not novel (Article 33(2) PCT).

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Dependent claims 2 and 5 do not contain any features which, in combination with the features of claim 1, meet the requirements of the PCT in respect of novelty, see figures 1A-3E and column 1 lines 19-32 and column 3 lines 16-37.

2.2 The document D2 is regarded as being the closest prior art to the subject-matter of independent claim 7, and discloses (the references in parentheses applying to this document see figure 4):

a container, in particular for preserving food products, consisting in a hollow structure obtainable by bending and sealing at least one substantially flat blank and comprising: a containing portion providing an enclosure in which to accommodate at least one preservable product, presenting at least one side wall furnished with at least one end portion adaptable by bending and sealing operations in such a way as to fashion a bottom end; and an outlet portion (11a, 11b, 13) located at the end opposite to the bottom end, permanently associated with the side wall of the containing portion and combining to establish the enclosure at least in part, characterized in that the outlet portion presents at least one spout (13) by which the food product in the container can be caused to follow a predetermined preferential flow direction, and in that such a spout consists in a part of the outlet portion furnished with at least two crease lines (see figure 3 ref. 14) extending divergently toward a free edge of the outlet portion and capable of alternating between a non operating condition in which the container is closed with the spout retracted into the outlet portion and presenting a substantially flat configuration, and an operating condition in which the container is open with the spout projecting from the selfsame outlet portion.

Dependent claim 8 does not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty, because (see D2 figure 4) a spout presenting a substantially Vee shaped cross sectional profile when in the operating condition is known.

2.3 The document D1 is regarded as being the closest prior art to the subject-matter of independent claim 9, and discloses (the references in parentheses applying to this document):

a method of manufacturing a container, in particular for preserving food products, utilizing a substantially flat blank of material presenting a plurality of crease lines (1) generated by a scoring operation, and comprising the steps of

- causing the blank to assume a substantially tubular shape (see figures 4f-7f) establishing at least one side wall of the container in production;

- fixing the blank to retain the tubular shape;
- bending the tubular blank along at least two mutually opposed segments of a transverse crease line delimiting an end portion of the side wall so that the end portion is caused to bend along angled crease lines departing from the transverse crease line and extending convergently toward a free transverse edge of the tubular blank, in such a way as to create a bottom end of the container in production, and at least two mutually opposed stiffening elements of layered structure;
- fixing the bottom end and the stiffening elements by sealing together at least two joined faces of the free transverse edge presented by the tubular blank;
- bending the end portion further along mutually opposed segments of the transverse crease line delimiting the stiffening elements so that these same elements are flattened over the bottom end;
- securing the stiffening elements to the bottom end,

-whereby this method comprises the further step of sealing the layered structure presented by each stiffening element along the corresponding segment of the transverse crease line.

The subject-matter of independent claim 9 is therefore not novel (Article 33(2) PCT).

The features of dependent claim 10 have already been employed for the same purpose in D1.

The subject-matter of dependent claim 10 is therefore not novel (Article 33(2) PCT).

3. Inventive step

Dependent claim 3 does not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step in

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light of the combination of D1 with document D2 (see figures 2-4).

Dependent claims 4 and 6 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step in light of the combination of D1 with document D3 figures 1 and 6.

4. Conclusion

Independent claim 1 is not in the two-part form in accordance with Rule 6.3(b) PCT, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).

The relevant background art disclosed in the document D1 has not been mentioned in the description (Rule 5.1(a)(ii) PCT).